

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

BRET R. KELLY, et al.,

Plaintiffs,

Case No. 18-cv-12823
Hon. Matthew F. Leitman

v.

THE UNIVERSITY OF
MICHIGAN, et al.,

Defendants.

**SCHEDULING ORDER FOR PLAINTIFFS’
MOTION FOR PRELIMINARY INJUNCTION**

On September 11, 2018, Plaintiffs filed a motion for preliminary injunction. On September 14, 2018, this Court held a telephone conference with all counsel to discuss the schedule and procedures for resolving Plaintiffs’ motion. In view of that discussion, the Court issues the following schedule and associated procedures:

| Event | Due Date |
|--|--|
| Defendant’s Response | September 28, 2018 |
| Meet and Confer (see below) | October 2, 2018 |
| Submission of Pre-Hearing Materials (see below) | October 4, 2018 |
| Preliminary Injunction Hearing | October 5, 2018 at 9:00 a.m. 600 Church St., Courtroom 127 Flint, MI 48502 |

1. Meet and Confer

Not later than the corresponding date set forth above, counsel for all parties shall meet and confer, preferably in person, to discuss the following:

- (a) whether the parties can agree to a preliminary injunction of a scope less than that sought by Plaintiffs;
- (b) whether any facts or legal conclusions are agreed upon; and
- (c) evidentiary issues, including any objections to the admissibility of any proposed exhibit or testimony to be offered at the hearing.

The meet and confer is intended to be substantive. The Court thus encourages the parties to exchange proposed findings of fact and conclusions of law (see below) prior to the meet and confer, such that each party has the opportunity to consider the precise language to which it would be stipulating at the meet and confer.

2. Submission of Pre-Hearing Materials

Not later than the corresponding date set forth above, counsel must:

- (a) File a “Joint Exhibit and Witness List” which lists all exhibits that the parties intend to introduce at the hearing and all witnesses the parties intend to call at the hearing. For each identified witness, the Joint Exhibit and Witness List must indicate whether the witness “will” be called or “may” be called at the hearing, the witness’s likely testimony (one or two sentences), an estimate of the time needed for direct and

cross examination of the witness, and any significant objection to the witness's testimony. For each exhibit the admission of which is not agreed to by the parties, the Joint Exhibit and Witness List must briefly state the basis for objection.

- (b) Provide the Court with a "Joint Exhibit Book" containing a copy of all proposed exhibits (including any deposition transcripts or applicable portions thereof) identified in the Joint Exhibit and Witness List. All exhibits must be marked by counsel prior to the preparation of the Joint Exhibit Book such that the copy in the Joint Exhibit Book is marked. The preferred method of marking is the traditional "Plaintiffs' Exhibit ____" and "Defendant's Exhibit ____" in number order, but any clear method is acceptable (e.g., numbers and letters).
- (c) File a joint statement concerning the suitability of hearing and trial under Federal Rule of Civil Procedure 65(a)(2).¹

3. The Preliminary Injunction Hearing

The Court will admit unobjected to exhibits in the Joint Exhibit and Witness List at the start of the preliminary injunction hearing. The Court will determine the admissibility of objected to exhibits and (objected-to testimony) prior to the start of

¹ In a case where Plaintiffs seeks a permanent injunction that is effectively an extension of the preliminary relief it seeks, counsel must discuss at the Meet and Confer, and then recommend to the Court in the Pre-Hearing Brief, the suitability of consolidating the preliminary injunction hearing with a trial for a permanent injunction. *See* Federal Rule of Civil Procedure 65(a)(1)(2).

the hearing or at the time a party seeks to introduce the objected-to evidence (or testimony). Evidence not included in the Joint Exhibit and Witness List will not be admitted absent a showing of good cause for failing to include the evidence on the list. Counsel are required to keep track of all exhibits admitted during the hearing.

IT IS SO ORDERED.

s/Matthew F. Leitman

MATTHEW F. LEITMAN

UNITED STATES DISTRICT JUDGE

Dated: September 17, 2018

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on September 17, 2018, by electronic means and/or ordinary mail.

s/Holly A. Monda

Case Manager

(810) 341-9764